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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/917,858	07/31/2001	Regina Geertruida Schoemaker	147/50194	9455

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EXAMINER
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CHANNAVAJJALA, LAKSHMI SARADA

ART UNIT	PAPER NUMBER
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1615

DATE MAILED: 04/09/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/917,858

Applicant(s)

SCHOEMAKER, REGINA  
GEERTRUIDA

Examiner

Lakshmi S. Channavajjala

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7. 6) ☐ Other:

Art Unit: 1615

### **DETAILED ACTION**

Receipt of Fee and declaration (paper #3), copy of the specification (paper #4), priority document (paper #5) and preliminary amendment (paper 6), all dated 11-9-01; and Information Disclosure Statement dated 7-31-01 (paper #7), is acknowledged.

Examiner notes that in the preliminary amendment, dated 11-9-01, applicants requested rewriting a paragraph appearing on at lines 2 through 12 of page 11. However, it appears that the amended paragraph, which discusses the data obtained from moxonidine treated and untreated hearts, relates to the DATA ANALYSIS on page 10 (lines 2 through 12) and not page 11. Further, examiner does not see any paragraph starting on line 2 of page 11. A clarification is requested.

### ***Claims***

Instant claims 1-5 are directed to a method of treating a patient who has suffered a myocardial infarction, comprising administering 4-chloro-5-[(4,5-dihydro-1H-imidazol-2-yl)-amino]-6-methoxy-2-methylpyrimidine, effective to inhibit or treat myocardial damage secondary to myocardial infarction, for postmyocardial infarction management and promoting recovery or rehabilitation of myocardial status.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

Art Unit: 1615

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 rejected under 35 U.S.C. 102(b) as being anticipated by WO 97/46241

(submitted on PTO-1449, referred to as WO '241).

WO '241 discloses a method of treating congestive heart failure by administering moxonidine (abstract, page 1, lines 10-15, page 13, lines 1-13, page 18, lines 14-22, page 19, lines 12-24). Examiner notes that the compound of the instant claims is also known as moxonidine (as described on page 1 of the specification). WO '241 disclose that moxonidine, a well tolerated anti-hypertensive drug (page 8, lines 16-29), reduces blood pressure and induce regression of left ventricular hypertrophy (page 9, lines 30 through page 10, lines). WO '241 further discloses that moxonidine treatment reduces vascular resistance while increasing cardiac output (page 10, lines 24-29).

WO '241 does not explicitly state postmyocardial infarction or recovery of myocardial status, as claimed. However, WO '241 discloses that congestive heart failure (CHF) is the end result of long-term or severe cardiac deficits, often caused by long-standing hypertension, acute myocardial infarction, idiopathic cardiomyopathy and a wide variety of secondary insults (page 1, lines 22-26). Further, WO '241 disclose that cardiac and peripheral regulatory mechanisms such as increased heart rate, hypertrophy, increased sympathetic nervous stimulation etc., play a role early in CHF, which further contributes to myocyte necrosis, hypertrophy leading to increased myocardial remodeling and heart failure (page 1, lines 29 through page 3, line 36 and page 4, lines 12-14). Examiner notes that same regulatory mechanisms are also observed in postmyocardial infarction patients (pages 3-5 of the instant application) as those described by WO '241. Therefore, moxonidine treatment of CHF taught by WO '241 reads on the instant

Art Unit: 1615

treatment of postmyocardial infarction or myocardial damage secondary to myocardial infarction.

2. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Lepran et al (J. cardiovascular Pharmacology, 1994, submitted on PTO-1449).

Lepran et al disclose that increased sympathomimetic activity seen during the acute phase of myocardial infarction aggravates arrhythmias, frequently leading to life threatening ventricular fibrillation (Introduction on page S9). Lepran et al studied the effect of moxonidine on arrhythmias induced by myocardial infarction in rats and observed that moxonidine significantly decreases the incidence of ventricular tachycardia during the first 15 minutes of infarction, decreased the infarct size and the number of animals survived without developing any arrhythmias was significantly increased (page S11, col. 2). Lepran et al further disclose that moxonidine at 0.03 mg/kg and 0.1 mg/kg is also effective in preventing reperfusion-induced arrhythmias after myocardial ischemia (S11, col. 2).

Lepran et al does not explicitly state “postmyocardial management or recovery or rehabilitation”. However, Lepran et al clearly state that arrhythmias and life-threatening ventricular fibrillation are caused due to increased sympathomimetic activity during the acute phase of myocardial infarction. In other words, Lepran et al aims at arrhythmias occurred after myocardial infarction. Therefore, it is implicit in the teachings of Lepran et al that moxonidine is administered to treat or inhibit the damage (arrhythmias or ventricular fibrillation) resulting from myocardial infarction (i.e., secondary to myocardial infarction or postmyocardial infarction). Lepran et al teaches that moxonidine is dissolved in saline, which reads on the instant carrier

Art Unit: 1615

(claim 5). Examiner notes that instant application describes that moxonidine treatment is suitable to man and large animals (page 2, last paragraph) and experiments were performed on rats (pages 7-13). Accordingly, the instant term "patients" encompass rats, which are also used in the experiments of Lepran et al.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 97/46241 (submitted on PTO-1449, referred to as WO '241).

Instant claims are directed to a method treating a patient who has suffered a myocardial infarction by administering moxonidine effective for inhibiting/treating the secondary damage to myocardial infarction, effective to recover myocardial status and postmyocardial management.

WO '241 as described above teaches treatment of congestive heart failure (CHF) with moxonidine. WO '241 does not clearly state that moxonidine is used in amounts effective for postmyocardial management or for recovering myocardial status. However, WO '241 describes that congestive heart failure is a results of long standing hypertension, acute myocardial infarction etc., and also describes the same cardiac and peripheral regulatory mechanisms during CHF (page 1, lines 29 through page 3, line 36 and page 4, lines 12-14), such as those occurring after myocardial infarction (as described by applicants on pages 3-5). Further, WO '241 shows

Art Unit: 1615

that moxonidine induces regression of myocardial hypertrophy, which often proceeds heart failure, by decreasing blood pressure and reducing the thickness of left ventricular septal thickness (paragraph bridging pages 8 and 9) and increases cardiac output by reducing vascular resistance (page 10, lines 24-29).

Therefore, it would have been obvious for one of an ordinary skill at the time of the instant invention that moxonidine treatment taught by WO '241 would be effective in inhibiting or treating the damages secondary to myocardial infarction, in postmyocardial management and in recovering myocardial status because WO '241 teaches that conditions such as congestive heart failure and myocardial hypertrophy occur after myocardial infarction i.e., secondary damage or postmyocardial condition. Therefore, one of an ordinary skill in the art would have administered moxonidine to patients suffered from myocardial infarction with an expectation to treat or manage the conditions after myocardial infarction such as heart failure, myocardial hypertrophy due to reduced hypertension, regressed ventricular septal thickness and increased cardiac output i.e., recovering myocardial condition.

No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lakshmi S. Channavajjala whose telephone number is 703-308-2438. The examiner can normally be reached on 7.30 AM -4.00 PM.

Art Unit: 1615

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K Page can be reached on 703-308-2927. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7924 for regular communications and 703-308-7924 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.



Lakshmi S. Channavajjala  
Examiner  
Art Unit 1615

April 8, 2002